

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

Karin J. Immergut
United States Attorney
District of Oregon
Claire M. Fay
Assistant United States Attorney
United States Attorney's Office
1000 S. W. Third Avenue, Suite 600
Portland, Oregon 97204

Attorneys for Plaintiff

Edward Arnold Alcantara, II
Register No. 65357-065
P. O. Box 3007
Terminal Island, California 90731

Pro Se Defendant

KING, Judge:

Before me is a Motion for Reconsideration to Include Rebuttal of February 19, 2006, for Evidentiary Hearing (#167) filed by defendant Edward Arnold Alcantara II (“Alcantara”).

By Opinion and Order dated February 14, 2006, I denied Alcantara’s Motion for Remedy, Dismissal with Prejudice and Reversal of Conviction, Motion to Appoint Counsel, and Motion to Supplement, finding that Alcantara was in effect seeking relief available under 28 U.S.C. § 2255, and that Alcantara had not requested authorization from the Ninth Circuit Court of Appeals to file a second motion under Section 2255. In his motion for reconsideration, Alcantara requests that I consider his “rebuttal” that he mailed on February 19, 2006 (#168).

A Motion for Reconsideration of a court’s order must show newly discovered evidence, a change in controlling law, or that the decision was clearly erroneous or manifestly unjust. School Dist. No. 1J, Multnomah County v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993). Having considered the arguments made by Alcantara in his rebuttal as though they were made in his Motion for Reconsideration, I do not find any reason to reconsider my decision of February 14. Alcantara may not “circumvent the requirements of AEDPA by simply styling the petition as a motion to enforce the plea agreement.” United States v. Montreal, 301 F.3d 1127, 1133 (9th Cir. 2003). Alcantara’s Motion for Reconsideration (#167) is denied.

IT IS SO ORDERED.

Dated this 3rd day of March, 2006.

/s/ Garr M. King
Garr M. King
United States District Judge